

REMARKS/ARGUMENTS

The present application has been reviewed in light of the Office Action dated June 23, 2009. Claims 1-28, 30-34 and 36-38 are currently pending, of which claims 26, 30, 32 and 33 are amended herein, and claim 29 having been cancelled herein. Claims 1-25 have been previously withdrawn from consideration and claim 35 has been previously cancelled. In light of the remarks that follow, early and favorable reconsideration and allowance of this application are respectfully requested.

Independent claims 26 and 33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,152,455 to Brockway et al. (hereinafter "Brockway"). Applicant respectfully submits that that independent claims 26 and 33, as amended herein are allowable over Brockway because Brockway fails to disclose the limitations of independent claims 26 and 33.

Independent claims 26 and 33 each recite an expandable joining member including, *inter alia*, a pair of guide rails with "at least one of the pair of guide rails being spaced a longitudinal distance from each of the proximal and distal terminal edges such that . . .at least one locking tab is slidably received between the pair of guide rails." In an embodiment of the present application, as depicted in FIG. 1 below for example, a joining member 200 includes guide rails 228. The guide rails 228 are spaced inwardly from distal and proximal terminal edges 208 and 210 by a longitudinal distance such that the guide rails 228 define discrete channels just wider than the locking tabs 220 and openings 212. Thus, the guide rails 228 function to guide the

locking tabs 220 as the locking tabs 220 slide therebetween and/or therethrough to facilitate engagement and/or cooperation of the locking tabs 228 with the openings 212 as discussed in paragraphs [0050] and [0051].

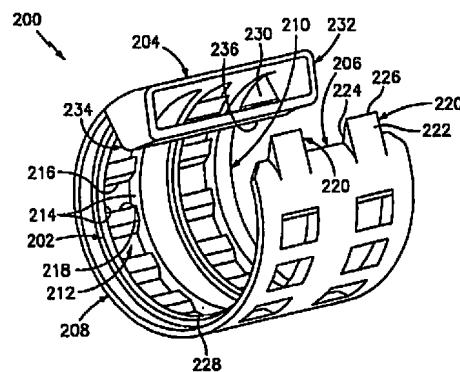


FIG. 1

In contrast to claims 26 and 33, Brockway discloses an expandable band 10 for securing a sealing element 2 inside a structure 4 such as a pipe or manhole as depicted in FIG. 1 reproduced below. The expandable band 10 includes a first end 14 having side portions 34 and 36, and an overlapping second end 16 supporting a tab 26 as depicted in FIG. 4 reproduced below.

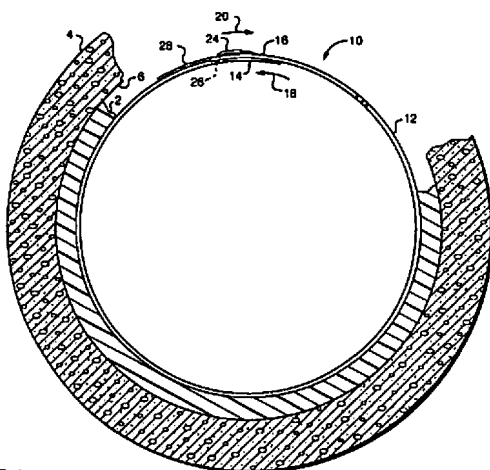


FIG. 1

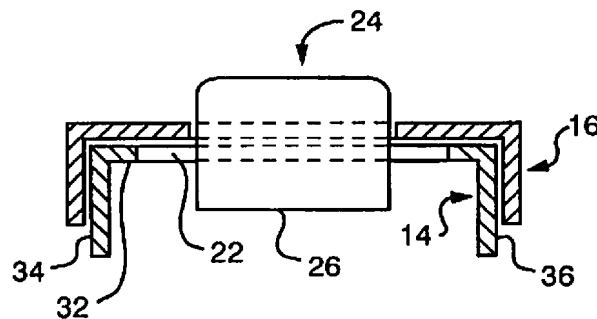
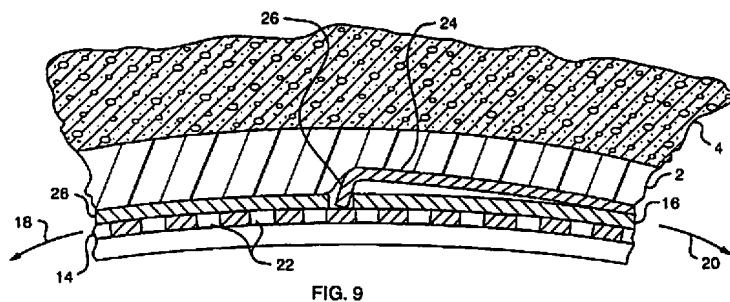


FIG. 4

The side portions 34 and 36 extend directly from the edges of a base portion 32 to form a U-Shaped or C-shaped cross-section (discussed at col. 3, line 53 to col. 4, line 5). The side portions 34, 36 are not spaced a longitudinal distance from the edges, and do not directly guide the tab 26 as the second end 16 slides over the first end 14. Rather, the tab 26 is disengaged from the first end 14 (away from side portions 34 and 36) to permit the first and second ends 14, 16 to slide relative to one another (see FIG. 9 reproduced below and discussion at col. 4, lines 51-57).



The second end portion 16 also exhibits a generally U-shaped cross-section. The sides of the second end 16 extend directly from the edges thereof to accommodate the entire width of the first end 14 therein. Thus, the sides of the second end portion 16 are not spaced a longitudinal distance from a terminal edge.

Applicant respectfully submits that Brockway fails to include or disclose any guide rails that are “spaced a longitudinal distance from each of the proximal and distal terminal edges such that . . . at least one locking tab is slidably received between the pair of guide rails” as recited in

independent claims 26 and 33. Accordingly, Applicant respectfully submits that independent claims 26 and 33 are allowable over Brockway under 35 U.S.C. § 102(b).

Moreover, with regard to independent claim 26, Applicant submits that independent claim 26 has also been amended to recite an expandable joining member including, *inter alia*, an annular body portion defining a longitudinal axis, the annular body portion including a distal terminal edge, a proximal terminal edge and a first and a second side terminal edge, wherein each of the first and the second side terminal edges is longitudinally oriented; and a guide channel formed near the first side terminal edge of the annular body.

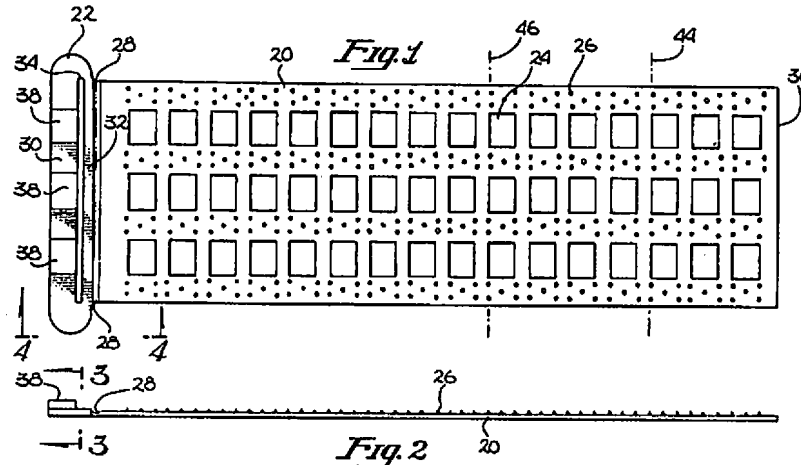
Applicant submits that the guide channel is important in that, during use, the expandable joining member is in a compressed state for insertion into the target site (i.e., vessel). In order to place the joining member in the compressed state, a resiliency of the joining member must be overcome. After the joining member is in the vessel, the joining member is allowed to return to an expanded condition by allowing the resiliency of the joining member to return the joining member to a less compressed state. As can be appreciated, the vessel exerts a compressive force on the joining member, which is resisted by the locking tabs thereof. Applicant submits that the guide channels helps to maintain the annular shape of the joining member. Support may be found at page 14, lines 13-21 of the specification.

Claims 27 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway. The Examiner asserts that it would have been obvious to one having ordinary skill in the art to have two arrays and two tabs. Applicant respectfully submits, however, that claims 27

and 28 are allowable over Brockway under 35 U.S.C. § 103(a) for at least the reasons discussed above with reference to claim 26 from which claims 27 and 28 depend.

Claims 26-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,683,940 to Debue (hereinafter “Debue”) in view of Brockway. According to the Examiner, Debue teaches the subject matter of claims 26-31, but fails to teach a pair of guide rails extending radially inward and circumferentially a substantial length of an array of openings. Applicant submits that even if Debue does disclose the subject matter of claims 26-32, Brockway fails to cure the deficiency of Debue with regard to underlying independent claim 26 in that Brockway fails to disclose guide rails that are “spaced a longitudinal distance from each of the proximal and distal terminal edges,” as discussed above. Moreover, as claims 27-31 depend, directly or indirectly, from claim 26 and include all the features of claim 26, Applicant respectfully submits that the subject matter of claims 27-31 are also allowable under 35 U.S.C. § 103(a) over Debue in view of Brockway.

With regard to claim 32, the Examiner contends that Debue discloses a plurality of flanges extending radially outward. The Examiner refers to protrusions 26 extending outward from a surface of the hair curler depicted in FIGS. 1 and 2 reproduced below.



Applicant notes that each of the protrusions 26 are spaced a distance from the side edges of the hair curler, and not “directly” from the edges as recited in amended claim 32. As depicted in FIG. 11 of Applicant’s specification below, a flange 240 extends directly from a distal terminal edge of the joining member. The flange 240 contacts the neck “N” of the bladder “B” to inhibit withdrawal of the joining member during an anastomosis procedure as discussed in paragraph [0073]. The flange 240 performs a function independent of projections 260 that inhibit separation of the bladder neck “N” from the urethra “U.”

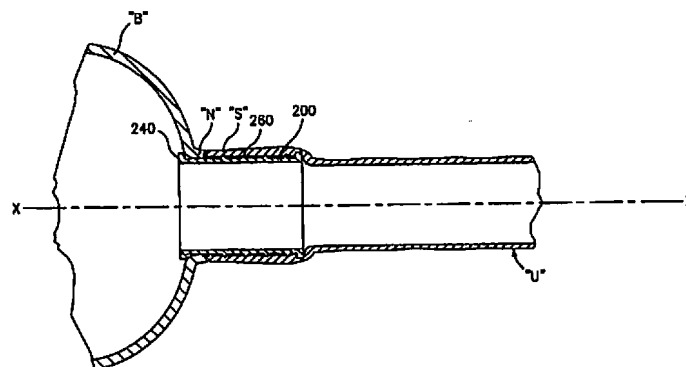


FIG. 11

Since Debue fails to disclose a flange “extending radially outward directly from at least one of the distal and proximal terminal edges thereof,” as recited in claim 32, Applicant respectfully submits that Debue in view of Brockway fails to teach or suggest claim 32. Accordingly, Applicant respectfully requests that the rejection of claim 32 under 35 U.S.C. § 103(a) over Debue in view of Brockway be withdrawn.

Claims 26-28, 33, 34 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,984,963 to Ryan et al. (hereinafter “Ryan”) in view of Brockway. According to the Examiner, Ryan teaches the subject matter of claims 26-28, 33, 34 and 36, but fails to teach a pair of guide rails extending radially inward and circumferentially a substantial length of an array of openings. Applicant submits that even if Ryan does disclose the subject matter of claims 26-28, 33, 34 and 36, Brockway fails to cure the deficiency of Ryan with regard to underlying independent claims 26 and 33 in that Brockway fails to disclose guide rails that are “spaced a longitudinal distance from each of the proximal and distal terminal edges,” as discussed above. Moreover, as claims 27-28, 34 and 36 depend, directly or indirectly, from claims 26 and 33, and respectively include all the features of claims 26 and 33, Applicant respectfully submits that the subject matter of claims 27-28, 34 and 36, as a whole, are also allowable under 35 U.S.C. § 103(a) over Ryan in view of Brockway.

Claims 37 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ryan in view Brockway and in further view of U.S. Patent No. 6,048,360 to Khosravi et al.

(hereinafter Khosravi). Applicant submits that claims 37 and 38 are allowable under 35 U.S.C. § 103(a) over Ryan in view of Brockway and Khosravi.

The Examiner relies on Khosravi for the disclosure of a coiled sheet graft constructed from an alloy having shape memory characteristics. Applicant submits that even if Khosravi does disclose a shape memory alloy, Khosravi fails to cure the deficiencies of Ryan in view of Brockway in that Khosravi does not disclose a guide rail “spaced a longitudinal distance from each of the proximal and distal terminal edges,” as recited in independent claim 33.

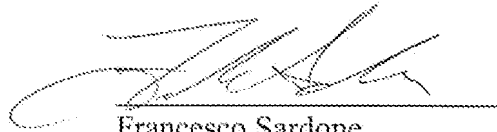
Accordingly, in view of the foregoing, since Khosravi fails to cure the deficiencies of Ryan, Applicant submits that the subject matter of claims 37 and 38, as a whole, are allowable under 35 U.S.C. § 103(a) over Ryan in view of Brockway and Khosravi.

In view of the amendments made to the claims herein, and in view of the remarks and arguments presented above, it is respectfully submitted that each of the rejections raised by the Examiner in the present Office Action have been overcome. It is respectfully submitted that none of the references of record, considered individually or in any proper combination with one another, disclose or suggest the present invention as claimed.

Should the Examiner believe that a telephone interview may facilitate prosecution of this application, the Examiner is respectfully requested to telephone Applicant’s undersigned representative at the number indicated below.

In view of the foregoing amendments and remarks, reconsideration of the application and allowance of claims 26-28, 30-34 and 36-38 is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Sardone', is written over a horizontal line.

Francesco Sardone
Reg. No. 47,918
Attorney for Applicants(s)

CARTER, DeLUCA, FARRELL & SCHMIDT, LLP
445 Broad Hollow Road, Suite 420
Melville, New York 11747
Phone: (631) 501-5700
Fax: (631) 501-3526

FS:jy